



**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION**

KEITH DONALD FRANKLIN,
Plaintiff,

vs.

MORGAN PROPERTIES PAYROLL
SERVICES, INC.,
Defendant.

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Civil Action No.: 3:22-737-MGL

**ORDER ADOPTING THE REPORT AND RECOMMENDATION,
GRANTING DEFENDANT'S MOTION FOR PARTIAL JUDGMENT ON THE
PLEADINGS, AND DISMISSING PLAINTIFF'S ADEA CLAIMS WITH PREJUDICE**

Plaintiff Keith Donald Franklin (Franklin), proceeding pro se, filed an amended complaint against Defendant Morgan Properties Payroll Services (Morgan), alleging disability discrimination and retaliation under the Americans with Disabilities Act, 42 U.S.C § 12101, *et seq.*; race discrimination and retaliation under Title VII of the Civil Rights Act of 1964, 42 U.S.C § 2000e, *et seq.*; and age discrimination and retaliation under the Age Discrimination in Employment Act (ADEA), 29 U.S.C § 621, *et seq.*

This matter is before the Court for review of the Report and Recommendation (Report) of the United States Magistrate Judge recommending the Court grant Morgan's motion for partial judgment on the pleadings and dismiss Franklin's ADEA claims with prejudice. The Report was made in accordance with 28 U.S.C. § 636 and Local Civil Rule 73.02 for the District of South Carolina.

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with the

Court. *Mathews v. Weber*, 423 U.S. 261, 270 (1976). The Court is charged with making a de novo determination of those portions of the Report to which specific objection is made, and the Court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge or recommit the matter with instructions. 28 U.S.C. § 636(b)(1).

The Magistrate Judge filed the Report on August 31, 2022. To date, Franklin has failed to file any objections. “[I]n the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must ‘only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.’” *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (quoting Fed. R. Civ. P. 72 advisory committee’s note). Moreover, a failure to object waives appellate review. *Wright v. Collins*, 766 F.2d 841, 845–46 (4th Cir. 1985).

After a thorough review of the Report and the record in this case under the standard set forth above, the Court adopts the Report and incorporates it herein. Therefore, it is the judgment of the Court Morgan’s motion for partial judgment on the pleadings is **GRANTED** and Franklin’s ADEA claims are **DISMISSED WITH PREJUDICE**.

IT IS SO ORDERED.

Signed this 26th day of September 2022, in Columbia, South Carolina.

s/ Mary Geiger Lewis
MARY GEIGER LEWIS
UNITED STATES DISTRICT JUDGE

NOTICE OF RIGHT TO APPEAL

The parties are hereby notified of the right to appeal this Order within thirty days from the date hereof, pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.